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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/624,439	07/24/2000	Jonathan Ellenberg	072271.0118	5413
5073	7590	12/08/2009		
BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			EXAMINER FELTEN, DANIEL S	
			ART UNIT	PAPER NUMBER
			3696	
			NOTIFICATION DATE	DELIVERY MODE
			12/08/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

09/624,439

Applicant(s)

ELLENBERG ET AL.

Examiner

DANIEL S. FELTEN

Art Unit

3696

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2009.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 1 is/are allowed.
6) ☒ Claim(s) 2-11 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
4) ☐ Interview Summary (PTO-413)
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. Request for Continued Examination (RCE) filed 8/24/2009 is acknowledged.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claims 2-11 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: As shown in Fig. 1, an embodiment of parties connected through the method which includes a central controller 110 which is connected to customer interface devices 120, a reward program central controller 130, and a banking/credit card network 140. Whereas the central controller 110 places an item on the "auction block" and sets a minimum bid price and a bid increment for the item. Customers at customer interface devices 120 can bid on the item using reward points they have accumulated as part of a customer affinity program and may purchase additional reward points for use in the auction.

As in Fig. 2 shows an embodiment of a general-purpose computer used with the system and method. Central controller 110 includes data storage device 210, random access memory ("RAM") 220, read only memory ("ROM") 230 and central processing unit ("CPU") 240. The

data storage device 210 conceptually includes a number of databases including, for example, a customer database 280, a reward point database 282, a merchandise database 284, a pricing database 286, an offer database 288, a currency database 290, a customization database 292 and a fulfillment database 294. The databases are discussed in more detail below in reference to Figs. 3-14. CPU 240 is also connected to network interfaces 260, which enable CPU 240 to connect to the customer interface devices 120. Network interfaces 270 enables the CPU 240 to connect to the reward programs central controller 130 and the banking/credit card network 140.

5. Claims 2 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: As shown in Fig. 11, the customer *logs onto the auction site* [see step 1110], the customer is queried as to whether he has previously registered for the customer affinity program auction method and system. If so, the registration has been previously completed [see step 1150], if not the customer enters information [see step 1130].

Allowable Subject Matter

6. Claim1 is allowed.

7. The following is a statement of reasons for the indication of allowable subject matter: Prior art of record fails to disclose determining, using a central controller, a minimum opening bid price by determining an auction pricing discount factor based at least on merchandise being auctioned and the time period of the auction.

8. Claims 2-11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL S. FELTEN whose telephone number is (571)272-6742. The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kramer James can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Daniel S Felten
Primary Examiner
Art Unit 3696

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